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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,835	12/12/2001	Ernie F. Brickell	884.437US1	9613
21186	7590	12/28/2005	EXAMINER	
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH 1600 TCF TOWER 121 SOUTH EIGHT STREET MINNEAPOLIS, MN 55402			SHERR, CRISTINA O	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/017,835	BRICKELL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Cristina Owen Sherr	3621	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3-22,24 and 29-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-22,24 and 29-55 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This communication is in response to the applicant's amendment filed October 3, 2005. Claims 1, 5, 7, 13, 27, 30, 39, and 41 have been amended. Claims 2, 23, and 28 have been canceled. Claims 44-55 are newly added. Claims 1, 3-22, 24-7 and 29-55 are currently pending in this case.

### ***Response to Arguments***

2. Applicant's arguments, see applicant's amendment, filed October 3, 2005, with respect to section 101 rejections of claims 7, 13 and 27 have been fully considered and are persuasive, with respect to the currently amended version of said claims. The section 101 rejection of independent claims 7, 13 and 27 and of their dependent claims 8-12, 14-22, 24-26, and 29-40 has been withdrawn.

3. Applicant's arguments with respect to claims 1, 3-22, 24-7 and 29-44 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3-22, 24-27 and 29-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Elander et al (US 4,500,750).

6. Regarding claim 1 –

Elander discloses a method of providing an authentication service (e.g. abstract), comprising: with an authentication server (e.g. col 5 ln 60-62 "a network of banks . . . connected to a master bank or switch"), relating a user identity to a set of authentication mechanisms, the user identity belonging to a user (e.g. col 6 ln 9-12); relating a type of transaction with a relying party to a level of authentication, the relying party reliant on the authentication service to authenticate the user before user access is provided to its service, program or information (e.g. col 6 ln 20-65); selecting at least one authentication mechanism from the set of authentication mechanisms according to the level of authentication associated with the type of transaction; and authenticating the user identity through the at least one authentication mechanism wherein the user is granted or denied access to the service, program or information provided by the relying party (e.g. col 6 ln 20-65).

7. Elander discloses in column 6 ln 20-65, different authentication mechanisms for users who are members of that bank and that branch, that same bank, but different branch and members of different banks. These are all, arguably, different authentication mechanisms according to the level of authentication associated with the type of transaction, as well as different mechanisms wherein the user is granted or denied access to the service. Thus, although not specifically disclosing the levels of authorization in this application, it would be obvious to one of ordinary skill to adapt Elander to obtain the instant invention.

8. Regarding claims 3-6 –

Elander discloses a mechanism as in claim 1, further comprising: monitoring a series of authentications for the relying party to detect fraud (e.g. col 5 p 6); wherein the authentication mechanisms in the set of authentication mechanisms are part of a distributed system (e.g. col 6 p 7); wherein at least one of the authentication mechanisms is mobile (e.g. col 2 p 3); a computer-readable medium having computer-executable instructions for performing the method as recited in claim 1 (e.g. col 2 p 3).

9. As above, Elander discloses in column 6 ln 20-65, different authentication mechanisms for users who are members of that bank and that branch, that same bank, but different branch and members of different banks. These are all, arguably, different authentication mechanisms according to the level of authentication associated with the type of transaction, as well as different mechanisms wherein the user is granted or denied access to the service.

10. Regarding claims 7-22, 24-27 and 29-55, the rejection is based on the same criteria as above.

11. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Conclusion***

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

13. Rubin (US 5,638,446) discloses a method for the secure distribution of electronic files in a distributed environment.

14. Johnson et al (US 5,428,795) discloses a method of and apparatus for providing automatic security control of distributions within a data processing center.

15. Bourbon (US 5,822,408) discloses a method and apparatus for verifying the identity of a receiver of a facsimile.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3621

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Maria June L.*  
PRIMARY EXAMINER